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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,121	04/14/2004	Gregory Ashton	9522	6455

27752 7590 06/01/2006

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EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/824,121	<b>Applicant(s)</b> ASHTON ET AL.	
	<b>Examiner</b> Melanie J. Hand	<b>Art Unit</b> 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed March 16, 2006 have been fully considered but they are not persuasive. With respect to applicant's argument that Kielpikowski does not teach or suggest a cuff bond disposed at the distal end of dual cuff assembly 24, Examiner disagrees. Kielpikowski teaches a bond created when the material of distal flaps 26 is secured around the elastic members 32 to secure them in place and subsequently bonded above and below said elastic members (Fig. 7), thus forming a cuff bond at a distal end of said dual cuff assembly. Also, Examiner agrees that lines of attachment 28,38 serves as intermediate bonds and stated as such in the previous Office action. No claim has been made by Examiner that lines of attachment 28,38 function as cuff bonds.

With respect to applicant's statements regarding design choice, Examiner refers applicant to the previous Office action in which all claims were rejected under 35 U.S.C. 102 and no argument regarding design choice was made by Examiner.

With respect to applicant's arguments regarding independent claim 14, Examiner disagrees and again refers applicant to Fig. 7 taught by Kielpikowski, in which it is clear that the inner containment flaps 26 have a pair of elastic members 40 disposed thereon.

### ***Double Patenting***

At the request of applicant, Examiner is confirming that the relevant copending application regarding the double patenting rejection is 10/824,122, not 10/842,122 as was incorrectly stated in the previous Office action. Examiner acknowledges intent of applicant to address said rejection upon receipt of this Office action.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kielpikowski (U.S. Patent No. 5,669,896).

With respect to **Claims 1,7,14-17**: Kielpikowski teaches diaper 10 comprising a liquid-impermeable outer cover 18, liquid permeable bodyside liner 20 and absorbent core 22 located between the bodyside liner 20 and outer cover 18. Diaper 10 also comprises containment flap assembly 24 (dual cuff) further comprising inner containment flaps 34 and outer containment flaps 26. Inner flaps 34 have distal edges 30, outer flaps 26 have distal edges 38, and both flap sets have coinciding proximal edges 28. Proximal edges 28 and 36 coincide with one another, form an intermediate bond between distal edges 30 and 38 and are defined by a line of attachment at which the flap assembly 24 is attached to bodyside liner 20. (Fig. 7) (Col. 2, lines 47-67, Col. 3, lines 1-3). As can be seen in Fig. 7, elastic members 32 extending along the length of flaps 26 are held in place by bonds wherein the material of flaps 26 is wrapped around said elastic members and adhered to itself, thus forming a cuff end bond at the distal end of the dual cuff assembly 24. Elastic members 40 extend substantially the entire length of inner flaps 34. Since the function of the flaps is as a dual cuff containment assembly and said dual cuff assembly is disposed longitudinally along substantially the entire length of the diaper at transversely opposed lateral edges of core 22, flaps 34 and 26 are barrier cuffs.

With respect to **Claim 2**: Since proximal edge 28 is located adjacent the periphery of bodyside liner 20, outer cover 18 extends outboard of distal edge 30 of outer flaps 26.

With respect to **Claims 3-6**: Kielpikowski teaches that inner flaps 34 and outer flaps 26 contain first elastic members 32 and second elastic members 40, respectively that are attached in a pretensioned condition to first flap sheet material 42 said inner flaps 34, and the combination is then attached to second sheet material 44. (Figs. 2,7) (Col. 3, lines 4-6, 16-18, Col. 5, lines 30-32,48-51)

With respect to **Claim 8**: As can best be seen in Figs. 1 and 7, Kielpikowski teaches fasteners.

With respect to **Claims 9-13**: Kielpikowski teaches that first and second flap materials 42 and 44 are comprised of laminates comprising spunbond and meltblown polymers and that spunbond surfaces are treated with a surfactant to make them more hydrophilic. (Col. 4, lines 32-36,40,41,57-63)

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

